

**UNITED STATES DISTRICT COURT**  
**WESTERN DISTRICT OF LOUISIANA**  
**MONROE DIVISION**

**LUV N' CARE, LTD.**

**CIVIL ACTION NO. 17-0628**

**VERSUS**

**JUDGE ROBERT G. JAMES**

**MORRISE. COHEN, ET AL.**

**MAG. JUDGE JOSEPH PEREZ-MONTES**

**RULING**

Pending before the Court are Plaintiff Luv N' Care, Ltd.'s ("LNC") Motion to Remand [Doc. No. 10] and its motion for attorney's fees, costs, and expenses, contained in its Motion to Remand [Doc. No. 10]. Also pending before the Court are Defendants' Morris E. Cohen and Lee A. Goldberg's ("GC") Motion to Enjoin State Court Proceedings [Doc. No. 6] and Motion to Dismiss and Transfer for Improper Venue [Doc. No. 21].

Magistrate Judge Perez-Montes issued a Report and Recommendation [Doc. No. 71], to which the parties filed objections, responses, and supplemental briefs. [Doc. Nos. 72, 73, 74, 75, 85 & 88].

Having fully reviewed the record in this matter, *de novo*, including all the briefing cited, the Court ADOPTS the Report and Recommendation of Magistrate Judge Perez-Montes with one exception. The Court hereby DECLINES TO ADOPT the Report and Recommendation as to the timeliness of removal, finds that there was a valid basis for removal, and that GC did not waive its objection to proper service, given its filing of the Supplemental Removal Notice and its agreement for its counsel to accept subsequent service by LNC. However, the Court agrees with and ADOPTS Magistrate Judge Perez-Montes's analysis and conclusions. The Court finds, based on Magistrate

Judge Perez-Montes' analysis, that GC has failed to establish that the amount in controversy exceeded \$75,000.00. For the same reasons discussed by Magistrate Judge Perez-Montes with regard to the retainer agreement fee dispute, the Court finds that the amount in controversy between LNC and Jackel International Limited also fails to establish the jurisdictional amount. The fact that LNC seeks damages of \$25,000,000.00 for **Jackel's** alleged violation of an injunction does not transform its claims against GC into a \$25,000,000.00 case. As LNC points out, in the *Jackel* case's summary proceeding, it sought only the return of the file. In the malpractice case against GC, LNC seeks damages for the additional fees and expenses of having to hire outside counsel to compel GC to turn over the file.

For these reasons and those stated by Magistrate Judge Perez-Montes, to the extent adopted, LNC's Motion to Remand [Doc. No.10] is GRANTED, but its motion for attorneys' fees, costs, and expenses in the Motion to Remand [Doc. No. 10], as well as GC's Motion to Enjoin Related State Court Proceedings [Doc. No. 6] and Motion to Dismiss and Transfer for Improper Venue [Doc. No. 21] are all DENIED. This matter is hereby REMANDED to the Fourth Judicial District Court, Parish of Ouachita, State of Louisiana.

MONROE, LOUISIANA, this 27<sup>th</sup> day of February, 2018.

  
ROBERT G. JAMES  
UNITED STATES DISTRICT JUDGE